

AGENDA ITEM NO: 9/2(b)

Parish:	Burnham Market Burnham Norton	
Proposal:	Variation of Condition 1 attached to Planning Permission 22/01459F: existing house and garden structures are to be demolished. A two storey replacement dwelling - three timber pavilion structures with pitched roofs on a masonry plinth is proposed. The scheme includes a driveway and associated hardstanding for vehicle parking	
Location:	Burnham Rise Herrings Lane Burnham Market King's Lynn PE31 8DW	
Applicant:	Mr Piers Harris	
Case No:	23/01371/F (Full Application)	
Case Officer:	Mrs N Osler	Date for Determination: 11 October 2023 Extension of Time Expiry Date: 10 November 2023

Reason for Referral to Planning Committee – Officer recommendation is contrary to Parish Council Recommendation.

Neighbourhood Plan: Yes

Case Summary

The application is to vary condition 1 of planning application 22/01459/F which granted permission for a new dwelling.

Condition 1 lists the approved plans which the applicant wishes to amend to enable the retention of a new first floor window on the western elevation.

The site lies within the development boundary for Burnham Market, within the North Norfolk Area of Outstanding Beauty. The site accommodates a significant number of protected trees, none of which would be affected by the insertion of the window.

Key Issues

Principle of Development
Neighbour Amenity
Crime and Disorder
Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

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SUPPORTING CASE

The original dwelling (now demolished) had two windows from habitable rooms directly overlooking the neighbouring property on the west side.

The original planning permission approved a large window with no privacy slats, centrally positioned along the west facing elevation. It would have overlooked the neighbouring house and rear garden. The applicant did not proceed with the window.

The current proposal for a new window with privacy slats/ fins has improved the previous conditions greatly by preventing overlooking of the neighbouring house and rear garden.

Please note views towards the neighbouring front garden on the west side are already possible from the new principal bedroom balcony. This has been approved.

The slats are made from durable hardwood and are a permanent fixture on the building. They will be maintained in perpetuity.

If slats were to be removed, their reinstatement would be dealt with by Planning enforcement. The applicant has no intention of removing them. The slats have been carefully designed as an integral part of the window and permanently fixed.

The slats do not cover the window completely. This is deliberate, to maintain a view towards the sea from the room. This narrow, angled opening does not compromise the privacy of the neighbouring house.

The privacy slats over the rest of the window are set at an appropriate angle to completely block views to the neighbouring house.

The new window is an important addition to the new house providing light and views of the setting sun. The proposal complies with Planning policy, and there is demonstrably no material impact on the occupiers of the neighbouring dwelling.

PLANNING HISTORY

22/01459/F: Application Permitted: 12/01/23 - VARIATION OF CONDITION 2 OF PLANNING PERMISSION 20/01466/F: REMOVAL OR VARIATION OF CONDITIONS 2, 7, 8 AND 9 OF PLANNING PERMISSION 19/01471/F: Existing house and associated garden structures are to be demolished. A 2-storey replacement dwelling - three timber pavilion structures with pitched roofs on a masonry plinth is proposed. The scheme includes a driveway and associated hardstanding for vehicle parking.

20/01466/NMA_1: Application Permitted: 14/07/22 - NON MATERIAL AMMENDMENT (to add Air Source heat pump) to PLANNING PERMISSION 20/01466/F: REMOVAL OR VARIATION OF CONDITIONS 2, 7, 8 AND 9 OF PLANNING PERMISSION 19/01471/F: Existing house and associated garden structures are to be demolished. A 2-storey replacement dwelling - three timber pavilion structures with pitched roofs on a masonry plinth is proposed. The scheme includes a driveway and associated hardstanding for vehicle parking.

20/01466/F: Application Permitted: 09/12/20 - REMOVAL OR VARIATION OF CONDITIONS 2, 7, 8 AND 9 OF PLANNING PERMISSION 19/01471/F: Existing house and associated garden structures are to be demolished. A 2-storey replacement dwelling - three timber pavilion structures with pitched roofs on a masonry plinth is proposed. The scheme includes a driveway and associated hardstanding for vehicle parking.

19/01471/F: Application Permitted: 17/10/19 - Existing house and associated garden structures are to be demolished. A 2-storey replacement dwelling - three timber pavilion structures with pitched roofs on a masonry plinth is proposed. The scheme includes a driveway and associated hardstanding for vehicle parking.

19/00010/PREAPP: PreApp - Possible Approval with Amendment: 25/03/19 - Pre-application enquiry (Full with consultations and meeting): Replacement dwelling.

RESPONSE TO CONSULTATION

Parish Council: OBJECT The applicant chose to ignore the planning consent for a building without a window overlooking the neighbouring property. It should be noted that this opening was installed at the time of the original build, presumably with the intention of gaining retrospective permission at some stage. The slatted baffles do not, in our opinion, safeguard the privacy of the neighbouring property; slats would need to be maintained in perpetuity and it is all too easy for them to be removed at any point in the future. It is noted that one of the slats has not been installed, or has already been removed, the remaining slats do afford any degree of privacy to the neighbouring property.

Highways Authority: N/A no highway safety implications.

Environmental Health & Housing – Environmental Quality (BCKLWN): NO OBJECTION
The application is for a variation to condition 1 which relates to carrying out the development in accordance with the approved plans. The changes outlined do not give rise to any additional comments regarding contaminated land.

REPRESENTATIONS One letter of objection has been received from the occupiers of Millwood, the dwelling to the immediate west of the site. The author states *I am the neighbour, which this window overlooks. This arrangement still overlooks my front garden, which is currently reasonably private and only visible through the gates. The overlooking from this window, which is at first floor level, is far more intrusive.*

I also note that for some strange reason one slat has been omitted, which seems strange to me, and is more instructive than if it we're there. If the borough is minded to permit this, which I certainly do not support, at the very least that missing slat needs to be installed.

I would note that I did not object to the original plans for the dwelling on the basis there was no overlooking; had there been I would have objected.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS08 - Sustainable Development

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NEIGHBOURHOOD PLAN POLICIES

Policy 6: Design

Policy 7: Residential Parking Standards

Policy 8: Biodiversity and Green Corrido

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations are:

- Principle of Development
- Neighbour Amenity
- Crime and Disorder
- Other Material Considerations

Principle of Development:

The principle of development (construction of a new dwelling) was established by planning permission granted under application 19/01471/F which was subsequently amended by virtue of applications: 20/01466/F, 20/01466/NMA_1, and 22/01459/F. This application seeks to vary the extant and implemented scheme approved under application 22/01459/F.

The principle of development is therefore not for debate (construction of a new dwellinghouse) and policies within the newly adopted neighbourhood plan do not require further consideration other than in relation to the retention of a new window which is all this application seeks.

Because the insertion (retention) of the window would not affect any protected trees, form and character (the window is an appropriate size and design in relation to the dwelling it serves and the wider locality), highway safety or impact on the Area of Outstanding Natural Beauty, the only issue for consideration is neighbour amenity.

Impact on Neighbour Amenity:

Paragraph 130f) of the NPPF states that planning decisions should ensure that developments *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Development Plan Policy DM15 requires proposals to be assessed against their impact on neighbouring uses and their occupants and specifies overlooking as a key consideration in such an assessment.

There are no policies within the newly adopted Brancaster Neighbourhood Plan that relate specifically to the issue of overlooking.

The objections from the Parish Council and neighbour are acknowledged. However, due to the forward position on the western elevation of the proposed window together with the provision of wooden slats (that would be conditioned to be retained and maintained if permission were granted) the only overlooking that would occur would be minimal overlooking to the parking and turning area of the neighbouring dwelling. Overlooking to this area is possible from Herrings Lane to its north and the limited overlooking that would be afforded this non-sensitive area from the proposed window would not be material.

It has been suggested that a slat is missing; this has been acknowledged by the applicant in their supporting statement. However, the acceptability of this window is on the basis that it is obscured in its entirety by slats. Therefore, to ensure full protection is afforded a more detailed plan of the windows / slats will be required by condition to ensure there are no gaps in the slats approved.

It is therefore considered that the development would not result in material overlooking and therefore accords with the NPPF in general, but specifically to paragraph 130f) of the NPPF and Development Plan Policy DM15.

Crime and Disorder:

The installation of the window raises no specific crime and disorder issues.

Other Material Considerations:

The dwelling without this window has permission and is nearly completion. The only difference between the dwelling being constructed and the dwelling with the additional window. Because it has been established that this window would not result in any material overlooking then there are no other material considerations in the determination of this application.

Specific Comments or Issues:

Because this application is for the variation of an extant permission conditions appended to the original permission, amended as necessary, will be appended to any permission granted under the current application.

CONCLUSION:

The insertion (retention) of a secondary window on the forward part of the western elevation of a substantially complete dwellinghouse with wooden slats angled in a northerly direction would not result in material overlooking. However, it is acknowledged that this conclusion differs from that of the Parish Council and occupiers the dwelling to the immediate east. It is therefore recommended that this application be approved subject to the following conditions.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition The development hereby permitted shall be carried out in accordance with the following approved plans:

DWG 1818-002 P5 Site plan
DWG 1818_100 P8 Floor plans
DWG 1818_101 P2 Roof plan
DWG 1818_110 P2 Proposed north elevation
DWG 1818_111 P1 Proposed south elevation
DWG 1818_112 P8 Proposed west elevation
DWG 1818_113 P2 Proposed east elevation
DWG 1818/580 P4 ASHP enclosure
DWG 1818/581 P2 New entrance and gate 1
DWG 1818/582 P1 New entrance and gate 2.

- 1 Reason For the avoidance of doubt and in the interests of proper planning.
- 2 Condition The protective fencing and the ground protection currently provided on site shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing or ground protection are damaged all operations shall cease until they are repaired in accordance with the approved details.

Nothing shall be stored or placed in any protected area in accordance with this condition.

In all other regards the development shall be carried out in full accordance with the details contained in the above-mentioned Report including hedge replacement in the location of the existing access.

- 2 Reason To ensure that the existing trees and hedgerow are properly protected in accordance with the NPPF, Development Plan Policies CS08 and DM15 and Burnham Market Neighbourhood Plan Policies 6 and 8.
- 3 Condition In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing

immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with current best practice, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

- 3 Reason In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF.
- 4 Condition The replacement dwelling hereby permitted shall be constructed in accordance with the materials listed at part 06 (Construction & Materials) of the Design and Access Statement that accompanied application 19/01471/F (received 20.08.2019) and the proposed zinc shall have a non-reflective finish, unless otherwise approved in writing by the Local Planning Authority.
- 4 Reason To ensure a satisfactory external appearance and grouping of materials and to limit the impact of the replacement dwelling in the wider landscape in accordance with the NPPF, Development Plan Policies CS08 and DM15 and Burnham Market Neighbourhood Plan Policy 6.
- 5 Condition The development hereby permitted shall be carried out in full accordance with the Recommendations set out at paragraph 7.1.1 and Enhancements set out in Chapter 8 of The Preliminary Ecological Appraisal that accompanied application 19/01471/F (dated February 2019, undertaken by Glaven Ecology) unless otherwise agreed in writing.
- 5 Reason To ensure that the development takes place substantially in accordance with the principles and parameters contained with the Environmental Statement in accordance with the NPPF and Development Plan Policy CS12.
- 6 Condition Vehicular, pedestrian, cyclist access to and egress from the adjoining highway shall be limited to the access shown on Drawing Nos. 1818_002 P5 and 1818/581.P2 only. Any other access or egress shall be permanently closed, and the highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority concurrently with the bringing into use of the new access.
- 6 Reason In the interests of highway safety in accordance with the NPPF and Development Plan Policy CS11.
- 7 Condition Prior to the first occupation of the development hereby permitted a 2.4 metre wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) shall be provided across the whole of the site's roadside frontage.

The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.
- 7 Reason In the interests of highway safety in accordance with the NPPF and Development Plan Policy CS11.
- 8 Condition Prior to the first occupation of the development hereby permitted the proposed on-site access, car parking and turning areas shall be laid out, levelled and

surfaced in accordance with the approved plan and retained thereafter available for that specific use.

- 8 Reason To ensure the permanent availability of the parking/maneuvering areas, in the interests of satisfactory development and highway safety in accordance with the NPPF, Development Plan Policies CS11 and DM17 and Burnham Market Neighbourhood Plan Policy 7.
- 9 Condition Other than to provide the access hereby approved, none of the existing perimeter hedges shown on approved plan 1818/002 P5 shall be uprooted, wilfully damaged or destroyed, or be removed without the prior written approval of the Local Planning Authority. Any area of hedging removed without such approval or that die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with hedge plants of a similar size and species in the next available planting season, unless the Local Planning Authority gives written approval to any variation.
- 9 Reason To protect the residential amenities of the occupiers of nearby property and to limit the wider impact of the proposal in the landscape in accordance with the NPPF, Development Plan Policies CS08 and DM15 and Burnham Market Neighbourhood Plan Policies 6 and 8.
- 10 Condition The maximum sound power level of the Air Source Heat Pump hereby permitted shall not exceed 42dB and the maximum sound power level of the Air Conditioning Unit hereby permitted shall not exceed 49dB.
- 10 Reason In the interests of the amenity of occupiers of neighbouring dwellings in accordance with the NPPF and Development Plan Policy DM15.
- 11 Condition Notwithstanding the approved plans, prior to the first occupation of the development hereby permitted a 1:20 scale drawing of the additional window (shown on drawing number 1818_100 Rev.P8 to be a secondary window serving the master bedroom) shall be submitted to and approved in writing by the Local Planning Authority. The drawing shall show the number, spacing, angle and materials of the slats. The window and slats shall be installed as approved prior to the first occupation of the development hereby permitted and shall thereafter be retained and maintained as approved.
- 11 Reason In the interests of the amenity of occupiers of the dwelling to the immediate west of the site (Millwood, Herrings Lane) in accordance with the NPPF and Development Plan Policy DM15.